

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SPECIAL SESSION

LEGISLATIVE BILL 5

FINAL READING

Introduced by Education Committee: Adams, 24, Chairperson; Avery, 28; Giese, 17; Haar, 21; Howard, 9; Sullivan, 41; Lautenbaugh, 18.

Read first time November 04, 2009

Committee: Education

A BILL

1 FOR AN ACT relating to state aid to schools; to amend sections
2 79-1005.01, 79-1007.15, 79-1007.19, and 79-1008.01,
3 Reissue Revised Statutes of Nebraska, and sections
4 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and
5 79-1023, Revised Statutes Supplement, 2009; to redefine
6 terms; to change and eliminate provisions relating
7 to disbursement of income tax receipts, calculation
8 of formula need, elementary site allowance, teacher
9 education adjustment, and instructional time allowance
10 and expenditure limits as prescribed; to provide
11 for calculation of a teacher education allowance; to
12 harmonize provisions; to repeal the original sections;

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1 and to declare an emergency.

2 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-3446, Revised Statutes Supplement,
2 2009, is amended to read:

3 77-3446 Base limitation means the budget limitation rate
4 applicable to school districts and the limitation on growth of
5 restricted funds applicable to other political subdivisions prior
6 to any increases in the rate as a result of special actions
7 taken by a supermajority of any governing board or of any
8 exception allowed by law. The base limitation is two and one-half
9 percent until adjusted, except that the base limitation for school
10 districts for school fiscal years 2009-10, 2011-12, and through
11 2012-13 is one and one-half percent and the base limitation for
12 school districts for school fiscal year 2010-11 is twenty-five
13 hundredths of one percent. The base limitation may be adjusted
14 annually by the Legislature to reflect changes in the prices
15 of services and products used by school districts and political
16 subdivisions.

17 Sec. 2. Section 79-1001, Revised Statutes Supplement,
18 2009, is amended to read:

19 79-1001 Sections 79-1001 to 79-1033 and section 8 of
20 this act shall be known and may be cited as the Tax Equity and
21 Educational Opportunities Support Act.

22 Sec. 3. Section 79-1003, Revised Statutes Supplement,
23 2009, is amended to read:

24 79-1003 For purposes of the Tax Equity and Educational
25 Opportunities Support Act:

1 (1) Adjusted general fund operating expenditures means
2 (a) for school fiscal years before school fiscal year 2007-08,
3 general fund operating expenditures as calculated pursuant to
4 subdivision (21) of this section minus the transportation allowance
5 and minus the special receipts allowance, (b) for school fiscal
6 year 2007-08, general fund operating expenditures as calculated
7 pursuant to subdivision (21) of this section minus the sum of
8 the transportation, special receipts, and distance education and
9 telecommunications allowances, (c) for school fiscal year 2008-09,
10 the difference of the product of the general fund operating
11 expenditures as calculated pursuant to subdivision (21) of this
12 section multiplied by the cost growth factor calculated pursuant
13 to section 79-1007.10 minus the transportation allowance, special
14 receipts allowance, poverty allowance, limited English proficiency
15 allowance, distance education and telecommunications allowance,
16 elementary site allowance, elementary class size allowance, summer
17 school allowance, and focus school and program allowance, (d)
18 for school fiscal ~~years 2009-10 through 2012-13,~~ year 2009-10,
19 the difference of the product of the general fund operating
20 expenditures as calculated pursuant to subdivision (21) of this
21 section multiplied by the cost growth factor calculated pursuant
22 to section 79-1007.10 minus the transportation allowance, special
23 receipts allowance, poverty allowance, limited English proficiency
24 allowance, distance education and telecommunications allowance,
25 elementary site allowance, elementary class size allowance, summer

1 school allowance, instructional time allowance, and focus school
2 and program allowance, (e) for school fiscal years 2010-11 through
3 2012-13, the difference of the product of the general fund
4 operating expenditures as calculated pursuant to subdivision (21)
5 of this section multiplied by the cost growth factor calculated
6 pursuant to section 79-1007.10 minus the transportation allowance,
7 special receipts allowance, poverty allowance, limited English
8 proficiency allowance, distance education and telecommunications
9 allowance, elementary site allowance, elementary class size
10 allowance, summer school allowance, instructional time allowance,
11 teacher education allowance, and focus school and program
12 allowance, and ~~(e)~~ (f) for school fiscal year 2013-14 and
13 each school fiscal year thereafter, the difference of the
14 product of the general fund operating expenditures as calculated
15 pursuant to subdivision (21) of this section multiplied by the
16 cost growth factor calculated pursuant to section 79-1007.10
17 minus the transportation allowance, special receipts allowance,
18 poverty allowance, limited English proficiency allowance, distance
19 education and telecommunications allowance, elementary site
20 allowance, summer school allowance, instructional time allowance,
21 teacher education allowance, and focus school and program
22 allowance;

23 (2) Adjusted valuation means the assessed valuation of
24 taxable property of each local system in the state, adjusted
25 pursuant to the adjustment factors described in section 79-1016.

1 Adjusted valuation means the adjusted valuation for the property
2 tax year ending during the school fiscal year immediately preceding
3 the school fiscal year in which the aid based upon that value is
4 to be paid. For purposes of determining the local effort rate yield
5 pursuant to section 79-1015.01, adjusted valuation does not include
6 the value of any property which a court, by a final judgment from
7 which no appeal is taken, has declared to be nontaxable or exempt
8 from taxation;

9 (3) Allocated income tax funds means the amount of
10 assistance paid to a local system pursuant to section 79-1005.01 or
11 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
12 section 79-1008.02;

13 (4) Average daily attendance of a student who resides on
14 Indian land means average daily attendance of a student who resides
15 on Indian land from the most recent data available on November 1
16 preceding the school fiscal year in which aid is to be paid;

17 (5) Average daily membership means the average daily
18 membership for grades kindergarten through twelve attributable to
19 the local system, as provided in each district's annual statistical
20 summary, and includes the proportionate share of students enrolled
21 in a public school instructional program on less than a full-time
22 basis;

23 (6) Base fiscal year means the first school fiscal year
24 following the school fiscal year in which the reorganization or
25 unification occurred;

1 (7) Board means the school board of each school district;

2 (8) Categorical funds means funds limited to a specific
3 purpose by federal or state law, including, but not limited to,
4 Title I funds, Title VI funds, federal vocational education funds,
5 federal school lunch funds, Indian education funds, Head Start
6 funds, and funds from the Education Innovation Fund;

7 (9) Consolidate means to voluntarily reduce the number of
8 school districts providing education to a grade group and does not
9 include dissolution pursuant to section 79-498;

10 (10) Department means the State Department of Education;

11 (11) District means any Class I, II, III, IV, V, or VI
12 school district;

13 (12) Ensuing school fiscal year means the school fiscal
14 year following the current school fiscal year;

15 (13) Equalization aid means the amount of assistance
16 calculated to be paid to a local system pursuant to sections
17 79-1007.11 to 79-1007.23, 79-1008.01 to 79-1022, and 79-1022.02 and
18 section 8 of this act;

19 (14) Fall membership means the total membership in
20 kindergarten through grade twelve attributable to the local system
21 as reported on the fall school district membership reports for each
22 district pursuant to section 79-528;

23 (15) Fiscal year means the state fiscal year which is the
24 period from July 1 to the following June 30;

25 (16) Formula students means:

1 (a) For school fiscal years prior to school fiscal year
2 2008-09, (i) for state aid certified pursuant to section 79-1022,
3 the sum of fall membership from the school fiscal year immediately
4 preceding the school fiscal year in which the aid is to be paid,
5 multiplied by the average ratio of average daily membership to fall
6 membership for the second school fiscal year immediately preceding
7 the school fiscal year in which aid is to be paid and the prior
8 two school fiscal years, plus qualified early childhood education
9 fall membership plus tuitioned students from the school fiscal year
10 immediately preceding the school fiscal year in which the aid is
11 to be paid and (ii) for final calculation of state aid pursuant to
12 section 79-1065, the sum of average daily membership plus qualified
13 early childhood education average daily membership plus tuitioned
14 students from the school fiscal year immediately preceding the
15 school fiscal year in which the aid was paid; and

16 (b) For school fiscal year 2008-09 and each school fiscal
17 year thereafter, (i) for state aid certified pursuant to section
18 79-1022, the sum of the product of fall membership from the school
19 fiscal year immediately preceding the school fiscal year in which
20 the aid is to be paid multiplied by the average ratio of average
21 daily membership to fall membership for the second school fiscal
22 year immediately preceding the school fiscal year in which the aid
23 is to be paid and the prior two school fiscal years plus sixty
24 percent of the qualified early childhood education fall membership
25 plus tuitioned students from the school fiscal year immediately

1 preceding the school fiscal year in which aid is to be paid minus
2 the product of the number of students enrolled in kindergarten that
3 is not full-day kindergarten from the fall membership multiplied by
4 0.5 and (ii) for final calculation of state aid pursuant to section
5 79-1065, the sum of average daily membership plus sixty percent of
6 the qualified early childhood education average daily membership
7 plus tuitioned students minus the product of the number of students
8 enrolled in kindergarten that is not full-day kindergarten from the
9 average daily membership multiplied by 0.5 from the school fiscal
10 year immediately preceding the school fiscal year in which aid was
11 paid;

12 (17) Free lunch and free milk student means a student
13 who qualified for free lunches or free milk from the most recent
14 data available on November 1 of the school fiscal year immediately
15 preceding the school fiscal year in which aid is to be paid;

16 (18) Full-day kindergarten means kindergarten offered by
17 a district for at least one thousand thirty-two instructional
18 hours;

19 (19) General fund budget of expenditures means the total
20 budget of disbursements and transfers for general fund purposes as
21 certified in the budget statement adopted pursuant to the Nebraska
22 Budget Act, except that for purposes of the limitation imposed in
23 section 79-1023 and the calculation pursuant to subdivision (2) of
24 section 79-1027.01, the general fund budget of expenditures does
25 not include any special grant funds, exclusive of local matching

1 funds, received by a district;

2 (20) General fund expenditures means all expenditures
3 from the general fund;

4 (21) General fund operating expenditures means:

5 (a) For state aid calculated for school fiscal years
6 prior to school fiscal year 2008-09, the total general fund
7 expenditures minus categorical funds, tuition paid, transportation
8 fees paid to other districts, adult education, summer school,
9 community services, redemption of the principal portion of general
10 fund debt service, retirement incentive plans, staff development
11 assistance, and transfers from other funds into the general fund
12 for the second school fiscal year immediately preceding the school
13 fiscal year in which aid is to be paid as reported on the annual
14 financial report prior to December 1 of the school fiscal year
15 immediately preceding the school fiscal year in which aid is to be
16 paid;

17 (b) For state aid calculated for school fiscal year
18 2008-09, as reported for the second school fiscal year immediately
19 preceding the school fiscal year in which aid is to be paid
20 on the annual financial report submitted prior to December
21 1 of the school fiscal year immediately preceding the school
22 fiscal year in which aid is to be paid, the total general
23 fund expenditures minus (i) the amount of all receipts to
24 the general fund, to the extent that such receipts are not
25 included in local system formula resources, from early childhood

1 education tuition, summer school tuition, educational entities as
2 defined in section 79-1201.01 for providing distance education
3 courses through the Educational Service Unit Coordinating Council
4 to such educational entities, private foundations, individuals,
5 associations, charitable organizations, the textbook loan program
6 authorized by section 79-734, and federal impact aid, (ii)
7 the amount of expenditures for categorical funds, tuition paid,
8 transportation fees paid to other districts, adult education,
9 community services, redemption of the principal portion of general
10 fund debt service, retirement incentive plans authorized by section
11 79-855, and staff development assistance authorized by section
12 79-856, and (iii) the amount of any transfers from the general fund
13 to any bond fund and transfers from other funds into the general
14 fund;

15 (c) For state aid calculated for school fiscal year
16 2009-10, as reported on the annual financial report for the second
17 school fiscal year immediately preceding the school fiscal year
18 in which aid is to be paid, the total general fund expenditures
19 minus (i) the amount of all receipts to the general fund, to the
20 extent that such receipts are not included in local system formula
21 resources, from early childhood education tuition, summer school
22 tuition, educational entities as defined in section 79-1201.01
23 for providing distance education courses through the Educational
24 Service Unit Coordinating Council to such educational entities,
25 private foundations, individuals, associations, charitable

1 organizations, the textbook loan program authorized by section
2 79-734, and federal impact aid, (ii) the amount of expenditures
3 for categorical funds, tuition paid, transportation fees paid to
4 other districts, adult education, community services, redemption
5 of the principal portion of general fund debt service, retirement
6 incentive plans authorized by section 79-855, and staff development
7 assistance authorized by section 79-856, (iii) the amount of any
8 transfers from the general fund to any bond fund and transfers from
9 other funds into the general fund, and (iv) any legal expenses in
10 excess of fifteen-hundredths of one percent of the formula need for
11 the school fiscal year in which the expenses occurred; and

12 (d) For state aid calculated for school fiscal year
13 2010-11 and each school fiscal year thereafter, as reported on
14 the annual financial report for the second school fiscal year
15 immediately preceding the school fiscal year in which aid is to be
16 paid, the total general fund expenditures minus (i) the amount of
17 all receipts to the general fund, to the extent that such receipts
18 are not included in local system formula resources, from early
19 childhood education tuition, summer school tuition, educational
20 entities as defined in section 79-1201.01 for providing distance
21 education courses through the Educational Service Unit Coordinating
22 Council to such educational entities, private foundations,
23 individuals, associations, charitable organizations, the textbook
24 loan program authorized by section 79-734, federal impact aid,
25 and levy override elections pursuant to section 77-3444, (ii)

1 the amount of expenditures for categorical funds, tuition paid,
2 transportation fees paid to other districts, adult education,
3 community services, redemption of the principal portion of general
4 fund debt service, retirement incentive plans authorized by section
5 79-855, and staff development assistance authorized by section
6 79-856, (iii) the amount of any transfers from the general fund
7 to any bond fund and transfers from other funds into the general
8 fund, (iv) any legal expenses in excess of fifteen-hundredths of
9 one percent of the formula need for the school fiscal year in which
10 the expenses occurred, (v) expenditures to pay for sums agreed to
11 be paid by a school district to certificated employees in exchange
12 for a voluntary termination occurring prior to July 1, 2009, and
13 (vi) (A) expenditures in school fiscal years 2009-10 through 2013-14
14 to pay for employer contributions pursuant to subsection (2) of
15 section 79-958 to the School Retirement System of the State of
16 Nebraska to the extent that such expenditures exceed the employer
17 contributions under such subsection that would have been made at a
18 contribution rate of seven and thirty-five hundredths percent or
19 (B) expenditures in school fiscal years 2009-10 through 2013-14
20 to pay for school district contributions pursuant to subdivision
21 (1)(c)(i) of section 79-9,113 to the Class V School Employees
22 Retirement System to the extent that such expenditures exceed the
23 school district contributions under such subdivision that would
24 have been made at a contribution rate of seven and thirty-seven
25 hundredths percent.

1 For purposes of this subdivision (21) of this section,
2 receipts from levy override elections shall equal ninety-nine
3 percent of the difference of the total general fund levy minus
4 a levy of one dollar and five cents per one hundred dollars of
5 taxable valuation multiplied by the assessed valuation for school
6 districts that have voted pursuant to section 77-3444 to override
7 the maximum levy provided pursuant to section 77-3442;

8 (22) High school district means a school district
9 providing instruction in at least grades nine through twelve;

10 (23) Income tax liability means the amount of the
11 reported income tax liability for resident individuals pursuant
12 to the Nebraska Revenue Act of 1967 less all nonrefundable credits
13 earned and refunds made;

14 (24) Income tax receipts means the amount of income tax
15 collected pursuant to the Nebraska Revenue Act of 1967 less all
16 nonrefundable credits earned and refunds made;

17 (25) Limited English proficiency students means (a) for
18 school fiscal years prior to school fiscal year 2009-10, the number
19 of students with limited English proficiency in a district from
20 the most recent data available on November 1 of the school fiscal
21 year preceding the school fiscal year in which aid is to be paid
22 and (b) for school fiscal year 2009-10 and each school fiscal year
23 thereafter, the number of students with limited English proficiency
24 in a district from the most recent data available on November 1 of
25 the school fiscal year preceding the school fiscal year in which

1 aid is to be paid plus the difference of such students with limited
2 English proficiency minus the average number of limited English
3 proficiency students for such district, prior to such addition,
4 for the three immediately preceding school fiscal years if such
5 difference is greater than zero;

6 (26) Local system means a learning community for purposes
7 of calculation of state aid for the second full school fiscal
8 year after becoming a learning community and each school fiscal
9 year thereafter, a unified system, a Class VI district and the
10 associated Class I districts, or a Class II, III, IV, or V
11 district and any affiliated Class I districts or portions of
12 Class I districts. The membership, expenditures, and resources of
13 Class I districts that are affiliated with multiple high school
14 districts will be attributed to local systems based on the percent
15 of the Class I valuation that is affiliated with each high school
16 district;

17 (27) Low-income child means (a) for school fiscal years
18 prior to 2008-09, a child under nineteen years of age living in
19 a household having an annual adjusted gross income of fifteen
20 thousand dollars or less for the second calendar year preceding
21 the beginning of the school fiscal year for which aid is being
22 calculated and (b) for school fiscal year 2008-09 and each school
23 fiscal year thereafter, a child under nineteen years of age living
24 in a household having an annual adjusted gross income for the
25 second calendar year preceding the beginning of the school fiscal

1 year for which aid is being calculated equal to or less than the
2 maximum household income that would allow a student from a family
3 of four people to be a free lunch and free milk student during the
4 school fiscal year immediately preceding the school fiscal year for
5 which aid is being calculated;

6 (28) Low-income students means the number of low-income
7 children within the district multiplied by the ratio of the formula
8 students in the district divided by the total children under
9 nineteen years of age residing in the district as derived from
10 income tax information;

11 (29) Most recently available complete data year means
12 the most recent single school fiscal year for which the annual
13 financial report, fall school district membership report, annual
14 statistical summary, Nebraska income tax liability by school
15 district for the calendar year in which the majority of the school
16 fiscal year falls, and adjusted valuation data are available;

17 (30) Poverty students means (a) for school fiscal years
18 prior to school fiscal year 2009-10, the number of low-income
19 students or the number of students who are free lunch and free milk
20 students in a district, whichever is greater, and (b) for school
21 fiscal year 2009-10 and each school fiscal year thereafter, the
22 number of low-income students or the number of students who are
23 free lunch and free milk students in a district plus the difference
24 of the number of low-income students or the number of students
25 who are free lunch and free milk students in a district, whichever

1 is greater, minus the average number of poverty students for
2 such district, prior to such addition, for the three immediately
3 preceding school fiscal years if such difference is greater than
4 zero;

5 (31) Qualified early childhood education average daily
6 membership means the product of the average daily membership for
7 school fiscal year 2006-07 and each school fiscal year thereafter
8 of students who will be eligible to attend kindergarten the
9 following school year and are enrolled in an early childhood
10 education program approved by the department pursuant to section
11 79-1103 for such school district for such school year multiplied by
12 the ratio of the actual instructional hours of the program divided
13 by one thousand thirty-two if: (a) The program is receiving a grant
14 pursuant to such section for the third year; (b) the program has
15 already received grants pursuant to such section for three years;
16 or (c) the program has been approved pursuant to subsection (5) of
17 section 79-1103 for such school year and the two preceding school
18 years, including any such students in portions of any of such
19 programs receiving an expansion grant;

20 (32) Qualified early childhood education fall membership
21 means the product of membership on the last Friday in September
22 2006 and each year thereafter of students who will be eligible
23 to attend kindergarten the following school year and are enrolled
24 in an early childhood education program approved by the department
25 pursuant to section 79-1103 for such school district for such

1 school year multiplied by the ratio of the planned instructional
2 hours of the program divided by one thousand thirty-two if: (a)
3 The program is receiving a grant pursuant to such section for the
4 third year; (b) the program has already received grants pursuant to
5 such section for three years; or (c) the program has been approved
6 pursuant to subsection (5) of section 79-1103 for such school year
7 and the two preceding school years, including any such students in
8 portions of any of such programs receiving an expansion grant;

9 (33) Regular route transportation means the
10 transportation of students on regularly scheduled daily routes to
11 and from the attendance center;

12 (34) Reorganized district means any district involved
13 in a consolidation and currently educating students following
14 consolidation;

15 (35) School year or school fiscal year means the fiscal
16 year of a school district as defined in section 79-1091;

17 (36) Sparse local system means a local system that is not
18 a very sparse local system but which meets the following criteria:

19 (a)(i) Less than two students per square mile in the
20 county in which each high school is located, based on the school
21 district census, (ii) less than one formula student per square
22 mile in the local system, and (iii) more than ten miles between
23 each high school attendance center and the next closest high school
24 attendance center on paved roads;

25 (b)(i) Less than one and one-half formula students per

1 square mile in the local system and (ii) more than fifteen miles
2 between each high school attendance center and the next closest
3 high school attendance center on paved roads;

4 (c) (i) Less than one and one-half formula students per
5 square mile in the local system and (ii) more than two hundred
6 seventy-five square miles in the local system; or

7 (d) (i) Less than two formula students per square mile in
8 the local system and (ii) the local system includes an area equal
9 to ninety-five percent or more of the square miles in the largest
10 county in which a high school attendance center is located in the
11 local system;

12 (37) Special education means specially designed
13 kindergarten through grade twelve instruction pursuant to section
14 79-1125, and includes special education transportation;

15 (38) Special grant funds means the budgeted receipts for
16 grants, including, but not limited to, Title I funds, Title VI
17 funds, funds from the Education Innovation Fund, reimbursements
18 for wards of the court, short-term borrowings including, but
19 not limited to, registered warrants and tax anticipation notes,
20 interfund loans, insurance settlements, and reimbursements to
21 county government for previous overpayment. The state board shall
22 approve a listing of grants that qualify as special grant funds;

23 (39) State aid means the amount of assistance paid to a
24 district pursuant to the Tax Equity and Educational Opportunities
25 Support Act;

1 (40) State board means the State Board of Education;

2 (41) State support means all funds provided to districts
3 by the State of Nebraska for the general fund support of elementary
4 and secondary education;

5 (42) Statewide average basic funding per formula student
6 means the statewide total basic funding for all districts divided
7 by the statewide total formula students for all districts;

8 (43) Statewide average general fund operating
9 expenditures per formula student means the statewide total
10 general fund operating expenditures for all districts divided by
11 the statewide total formula students for all districts;

12 (44) Teacher has the definition found in section 79-101;

13 (45) Temporary aid adjustment factor means (a) for school
14 fiscal years before school fiscal year 2007-08, one and one-fourth
15 percent of the sum of the local system's transportation allowance,
16 the local system's special receipts allowance, and the product
17 of the local system's adjusted formula students multiplied by
18 the average formula cost per student in the local system's
19 cost grouping and (b) for school fiscal year 2007-08, one and
20 one-fourth percent of the sum of the local system's transportation
21 allowance, special receipts allowance, and distance education and
22 telecommunications allowance and the product of the local system's
23 adjusted formula students multiplied by the average formula cost
24 per student in the local system's cost grouping;

25 (46) Tuitioned students means students in kindergarten

1 through grade twelve of the district whose tuition is paid by the
2 district to some other district or education agency; and

3 (47) Very sparse local system means a local system that
4 has:

5 (a) (i) Less than one-half student per square mile in
6 each county in which each high school attendance center is located
7 based on the school district census, (ii) less than one formula
8 student per square mile in the local system, and (iii) more than
9 fifteen miles between the high school attendance center and the
10 next closest high school attendance center on paved roads; or

11 (b) (i) More than four hundred fifty square miles in the
12 local system, (ii) less than one-half student per square mile in
13 the local system, and (iii) more than fifteen miles between each
14 high school attendance center and the next closest high school
15 attendance center on paved roads.

16 Sec. 4. Section 79-1005.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 79-1005.01 For state aid calculated for all school fiscal
19 years except school fiscal years 2002-03 through 2007-08:

20 (1) An amount equal to the amount appropriated to
21 the School District Income Tax Fund for distribution in school
22 fiscal year 1992-93 shall be disbursed as option payments as
23 determined under section 79-1009 and as allocated income tax
24 funds as determined in this section and sections 79-1008.01,
25 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in

1 section 79-1008.02. Funds not distributed as allocated income tax
2 funds due to minimum levy adjustments shall not increase the amount
3 available to local systems for distribution as allocated income tax
4 funds;

5 (2) Not later than November 15 of each year, the Tax
6 Commissioner shall certify to the department for the preceding tax
7 year the income tax liability of resident individuals for each
8 local system. The 1996 income tax liability of resident individuals
9 of Class I districts that are affiliated with multiple high school
10 districts shall be divided between local systems based on the
11 percentage of the Class I district's valuation affiliated with each
12 high school district; and

13 (3) Using the data certified by the Tax Commissioner
14 pursuant to subdivision (2) of this section, the department
15 shall calculate the allocation percentage and each local system's
16 allocated income tax funds. The allocation percentage shall be an
17 amount equal to the amount appropriated to the School District
18 Income Tax Fund for distribution in school fiscal year 1992-93
19 minus the total amount paid for option students pursuant to section
20 79-1009 and, for aid calculated for school fiscal year ~~2008-09,~~
21 2010-11, minus twenty million dollars with the difference divided
22 by the aggregate statewide income tax liability of all resident
23 individuals certified pursuant to subdivision (2) of this section.
24 Each local system's allocated income tax funds shall be calculated
25 by multiplying the allocation percentage times the local system's

1 income tax liability certified pursuant to subdivision (2) of this
2 section.

3 Sec. 5. Section 79-1007.11, Revised Statutes Supplement,
4 2009, is amended to read:

5 79-1007.11 (1) Except as otherwise provided in this
6 section, for school fiscal year 2008-09, each school district's
7 formula need shall equal the difference of the sum of the school
8 district's basic funding, poverty allowance, limited English
9 proficiency allowance, elementary class size allowance, focus
10 school and program allowance, summer school allowance, special
11 receipts allowance, transportation allowance, elementary site
12 allowance, distance education and telecommunications allowance,
13 averaging adjustment, and teacher education adjustment, minus
14 the sum of the limited English proficiency allowance correction,
15 poverty allowance correction, and local choice adjustment.

16 (2) Except as otherwise provided in this section, for
17 school fiscal ~~years 2009-10 and 2010-11,~~ year 2009-10, each
18 school district's formula need shall equal the difference of the
19 sum of the school district's basic funding, poverty allowance,
20 limited English proficiency allowance, elementary class size
21 allowance, focus school and program allowance, summer school
22 allowance, special receipts allowance, transportation allowance,
23 elementary site allowance, instructional time allowance, distance
24 education and telecommunications allowance, averaging adjustment,
25 teacher education adjustment, new learning community transportation

1 adjustment, student growth adjustment, and new school adjustment,
2 minus the sum of the limited English proficiency allowance
3 correction, poverty allowance correction, and local choice
4 adjustment.

5 (3) Except as otherwise provided in this section, for
6 school fiscal year 2010-11, each school district's formula need
7 shall equal the difference of the sum of the school district's
8 basic funding, poverty allowance, limited English proficiency
9 allowance, elementary class size allowance, focus school and
10 program allowance, summer school allowance, special receipts
11 allowance, transportation allowance, elementary site allowance,
12 instructional time allowance, teacher education allowance, distance
13 education and telecommunications allowance, averaging adjustment,
14 new learning community transportation adjustment, student growth
15 adjustment, and new school adjustment, minus the sum of the
16 limited English proficiency allowance correction, poverty allowance
17 correction, and local choice adjustment.

18 ~~(3)~~ (4) Except as otherwise provided in this section, for
19 school fiscal years 2011-12 and 2012-13, each school district's
20 formula need shall equal the difference of the sum of the
21 school district's basic funding, poverty allowance, limited
22 English proficiency allowance, elementary class size allowance,
23 focus school and program allowance, summer school allowance,
24 special receipts allowance, transportation allowance, elementary
25 site allowance, instructional time allowance, teacher education

1 allowance, distance education and telecommunications allowance,
2 averaging adjustment, ~~teacher education adjustment~~, new learning
3 community transportation adjustment, student growth adjustment,
4 any positive student growth adjustment correction, and new school
5 adjustment, minus the sum of the limited English proficiency
6 allowance correction, poverty allowance correction, any negative
7 student growth adjustment correction, and local choice adjustment.

8 ~~(4)~~ (5) Except as otherwise provided in this section, for
9 school fiscal year 2013-14 and each school fiscal year thereafter,
10 each school district's formula need shall equal the difference
11 of the sum of the school district's basic funding, poverty
12 allowance, limited English proficiency allowance, focus school
13 and program allowance, summer school allowance, special receipts
14 allowance, transportation allowance, elementary site allowance,
15 instructional time allowance, teacher education allowance, distance
16 education and telecommunications allowance, averaging adjustment,
17 ~~teacher education adjustment~~, new learning community transportation
18 adjustment, student growth adjustment, any positive student growth
19 adjustment correction, and new school adjustment, minus the sum
20 of the limited English proficiency allowance correction, poverty
21 allowance correction, any negative student growth adjustment
22 correction, and local choice adjustment.

23 ~~(5)~~ (6) If the formula need calculated for a school
24 district pursuant to subsections (1) through ~~(4)~~ (5) of this
25 section is less than one hundred percent of the formula need for

1 such district for the school fiscal year immediately preceding
2 the school fiscal year for which aid is being calculated, the
3 formula need for such district shall equal one hundred percent
4 of the formula need for such district for the school fiscal year
5 immediately preceding the school fiscal year for which aid is being
6 calculated.

7 ~~(6)~~ (7) Except as provided in subsection ~~(8)~~ (9) of
8 this section, if the formula need calculated for a school district
9 pursuant to subsections (1) through ~~(4)~~ (5) of this section is
10 more than one hundred twelve percent of the formula need for
11 such district for the school fiscal year immediately preceding
12 the school fiscal year for which aid is being calculated, the
13 formula need for such district shall equal one hundred twelve
14 percent of the formula need for such district for the school fiscal
15 year immediately preceding the school fiscal year for which aid
16 is being calculated, except that the formula need shall not be
17 reduced pursuant to this subsection for any district (a) receiving
18 a student growth adjustment for the school fiscal year for which
19 aid is being calculated or (b) for school fiscal year 2008-09, for
20 which the formula students for the certification of aid pursuant to
21 section 79-1022 for school fiscal year 2008-09 minus the formula
22 students for the certification of aid pursuant to section 79-1022
23 for school fiscal year 2007-08 equals at least the greater of
24 twenty-five students or one percent of the formula students for the
25 certification of aid pursuant to section 79-1022 for school fiscal

1 year 2007-08.

2 ~~(7)~~ (8) For purposes of subsections ~~(5)~~ and (6) and
3 (7) of this section, the formula need for the school fiscal year
4 immediately preceding the school fiscal year for which aid is being
5 calculated shall be the formula need used in the final calculation
6 of aid pursuant to section 79-1065 and for districts that were
7 affected by a reorganization with an effective date in the calendar
8 year preceding the calendar year in which aid is certified for the
9 school fiscal year for which aid is being calculated, the formula
10 need for the school fiscal year immediately preceding the school
11 fiscal year for which aid is being calculated shall be attributed
12 to the affected school districts based on information provided to
13 the department by the school districts or proportionally based on
14 the adjusted valuation transferred if sufficient information has
15 not been provided to the department.

16 ~~(8)~~ (9) For state aid calculated for the first full
17 school fiscal year of a new learning community, if the formula need
18 calculated for a member school district pursuant to subsections
19 (1) through ~~(5)~~ (6) of this section is less than the sum of the
20 school district's state aid certified for the school fiscal year
21 immediately preceding the first full school fiscal year of the
22 learning community plus the school district's other actual receipts
23 included in local system formula resources pursuant to section
24 79-1018.01 for such school fiscal year plus the product of the
25 school district's general fund levy for such school fiscal year up

1 to one dollar and five cents multiplied by the school district's
2 assessed valuation for such school fiscal year, the formula need
3 for such school district for the school fiscal year for which aid
4 is being calculated shall equal such sum.

5 Sec. 6. Section 79-1007.15, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-1007.15 (1) For school fiscal year 2008-09, the
8 department shall calculate an elementary site allowance for any
9 district in which (a) the district has more than one elementary
10 attendance site, (b) at least one of the elementary attendance
11 sites does not offer any other grades, (c) the square miles in the
12 district divided by the number of elementary attendance sites in
13 the district equals one hundred square miles or more per elementary
14 attendance site, and (d) the fall membership in elementary site
15 grades in the district divided by the number of elementary site
16 grades then divided again by the number of elementary attendance
17 sites equals fifteen or fewer students per grade per elementary
18 attendance site. Qualifying elementary attendance sites for such
19 districts shall only offer elementary site grades and shall have
20 an average of fifteen or fewer students per grade in the fall
21 membership.

22 (2) For school fiscal year 2009-10 and each school fiscal
23 year thereafter, the department shall calculate an elementary site
24 allowance for any district which has at least one qualifying
25 elementary attendance site and which submits the information

1 required for the calculation on a form prescribed by the department
2 on or before October 15 of the school fiscal year preceding the
3 school fiscal year for which aid is being calculated. A qualifying
4 elementary attendance site shall be an elementary attendance site,
5 in a district with multiple elementary attendance sites, which does
6 not have another elementary attendance site within seven miles in
7 the same school district or which is the only public elementary
8 attendance site located in an incorporated city or village.

9 (3) The elementary site allowance for each qualifying
10 district shall equal the sum of the elementary site allowances for
11 each qualifying elementary attendance site in the district. The
12 elementary site allowance for each qualifying elementary attendance
13 site shall equal five hundred percent of the statewide average
14 general fund operating expenditures per formula student multiplied
15 by the result of rounding the ratio of the fall membership
16 attributed to the elementary attendance site divided by eight up to
17 the next whole number if the result was not a whole number, except
18 that if the resulting whole number is greater than the number of
19 elementary ~~grades offered in the elementary attendance site,~~ site
20 grades, the whole number shall be reduced to equal the number of
21 ~~grades offered in the elementary attendance site,~~ elementary site
22 grades.

23 (4) For purposes of this section:

24 (a) Each district shall determine which grades are
25 considered elementary site grades, except that (i) all grades

1 designated as elementary site grades shall be offered in each
2 elementary attendance site in the district, without any preference
3 indicated by the school board or any school district administrator
4 for students to attend different elementary attendance sites
5 depending on their elementary site grade level, for the school
6 fiscal year for which aid is being calculated and for each of the
7 five school fiscal years preceding the school fiscal year for which
8 aid is being calculated and (ii) elementary site grades shall not
9 include grades nine, ten, eleven, or twelve;

10 (b) An elementary attendance site is an attendance site
11 in which elementary site grades are offered;

12 (c) The primary elementary site shall be the elementary
13 attendance site to which the most formula students are attributed
14 in the district and shall not be a qualifying elementary attendance
15 site; and

16 (d) Fall membership means the fall membership for the
17 school fiscal year immediately preceding the school fiscal year for
18 which aid is being calculated.

19 (5) If the elementary attendance site is new or is being
20 reopened after being closed for at least one school year, the
21 requirements of subdivision (4) (a) (i) of this section with respect
22 to preceding school fiscal years shall not apply to school fiscal
23 years in which the elementary attendance site was not in operation.

24 (6) The department shall determine if the qualifications
25 for the elementary site allowance have been met for each elementary

1 attendance site for which information has been submitted. The
 2 department may rely on the information submitted and any other
 3 information available to the department, including, but not limited
 4 to, past attendance patterns. The state board shall establish a
 5 procedure for appeal of decisions of the department to the state
 6 board for a final determination.

7 Sec. 7. Section 79-1007.19, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 79-1007.19 For school fiscal year ~~2008-09~~ and each school
 10 ~~fiscal year thereafter,~~ years 2008-09 and 2009-10, the department
 11 shall calculate a teacher education adjustment for each district as
 12 follows:

13 (1) Teacher education points shall be calculated for each
 14 district by the department based upon data from the fall personnel
 15 report required pursuant to section 79-804 for the school fiscal
 16 year immediately preceding the school fiscal year in which aid is
 17 to be paid. Each full-time equivalent teacher shall (a) be under
 18 contract with a school district as required pursuant to section
 19 79-818 and (b) only be counted one time in the awarding of any
 20 points pursuant to this section. Each district shall receive one
 21 point for each full-time equivalent teacher who has earned and been
 22 awarded a master's degree or an education specialist's degree and
 23 two points for each full-time equivalent teacher who has earned and
 24 been awarded a doctoral degree;

25 (2) A teacher education index shall be calculated for

1 each district by dividing the ratio of teacher education points for
 2 the district divided by the number of full-time equivalent teachers
 3 in the district by the ratio of teacher education points for all
 4 districts divided by the number of full-time equivalent teachers in
 5 all districts; and

6 (3) The teacher education adjustment for each district
 7 shall equal ten percent ~~for school fiscal years 2008-09 and~~
 8 ~~2009-10 and thirteen and seventy-five one-hundredths percent for~~
 9 ~~each school fiscal year thereafter~~ of the district's basic funding
 10 multiplied by the difference of the product of the district's
 11 teacher education index minus one, except that if the result is
 12 less than zero, the teacher education adjustment shall equal zero.

13 Sec. 8. For school fiscal year 2010-11 and each school
 14 fiscal year thereafter, the department shall calculate a teacher
 15 education allowance for each district as follows:

16 (1) Teacher education points shall be calculated for each
 17 district by the department based upon data from the fall personnel
 18 report required pursuant to section 79-804 for the school fiscal
 19 year immediately preceding the school fiscal year in which aid is
 20 to be paid. Each full-time equivalent teacher shall (a) be under
 21 contract with a school district as required pursuant to section
 22 79-818 and (b) only be counted one time in awarding any points
 23 pursuant to this section. Each district shall receive one point for
 24 each full-time equivalent teacher who has earned and been awarded a
 25 master's degree or an education specialist's degree and two points

1 for each full-time equivalent teacher who has earned and been
2 awarded a doctoral degree;

3 (2) A teacher education index shall be calculated for
4 each district by dividing the ratio of teacher education points for
5 the district divided by the number of full-time equivalent teachers
6 in the district by the ratio of teacher education points for all
7 districts divided by the number of full-time equivalent teachers in
8 all districts; and

9 (3) The teacher education allowance for each district
10 shall equal eight and one-half percent of the statewide average
11 general fund operating expenditures per formula student multiplied
12 by the district's formula students and multiplied by the difference
13 of the product of the district's teacher education index minus one,
14 except that if the result is less than zero, the teacher education
15 allowance shall equal zero.

16 Sec. 9. Section 79-1007.23, Revised Statutes Supplement,
17 2009, is amended to read:

18 79-1007.23 For state aid calculated for school fiscal
19 year 2009-10 and each school fiscal year thereafter:

20 (1) The department shall calculate an instructional time
21 allowance for each district equal to the product of the formula
22 students of such district multiplied by the instructional time
23 factor for such district multiplied by eighty-five percent of the
24 statewide average general fund operating expenditures per formula
25 student;

1 (2) The instructional time factor shall equal the
2 difference of the ratio of the district's average hours of
3 instruction for each full-time student during the regular school
4 year for the most recently available complete data year divided by:
5 (a) For state aid calculated for school fiscal year 2009-10, the
6 comparison group average hours of instruction for each full-time
7 student during the regular school year for the most recently
8 available complete data year minus one; or (b) for state aid
9 calculated for school fiscal year 2010-11 and each school fiscal
10 year thereafter, the statewide average hours of instruction for
11 each full-time student during the regular school year for the most
12 recently available complete data year minus one, except that if
13 the result is less than zero, the instructional time factor shall
14 equal zero; and

15 (3) The For school fiscal years 2009-10 and 2010-11,
16 the comparison group average hours of instruction for each
17 full-time student shall be an average of the averages for all
18 school districts in the comparison group. The average hours of
19 instruction shall be defined by the department and shall not
20 include extracurricular activities outside of the regular school
21 day or time designated for students to eat lunch. The statewide
22 average hours of instruction for each full-time student shall be an
23 average of the averages for all school districts; and-

24 (4) For school fiscal year 2011-12 and each school
25 fiscal year thereafter, the average hours of instruction shall be

1 defined by the department and shall be based on scheduled time for
2 courses and the number of students participating in such courses as
3 reported to the department for the most recently available complete
4 data year. Hours of instruction shall not include extracurricular
5 activities outside of the regular school day or time designated for
6 students to eat lunch. The statewide average hours of instruction
7 for each student shall be an average of the averages for all school
8 districts.

9 Sec. 10. Section 79-1008.01, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 79-1008.01 Except as provided in sections 79-1008.02
12 to 79-1010, each local system shall receive equalization aid in
13 the amount that the total formula need of each local system,
14 as determined pursuant to sections 79-1007.01 to 79-1007.23 and
15 section 8 of this act, exceeds its total formula resources as
16 determined pursuant to sections 79-1015.01 to 79-1018.01.

17 Sec. 11. Section 79-1023, Revised Statutes Supplement,
18 2009, is amended to read:

19 79-1023 (1) On or before June 1, 2009, on or before March
20 1, 2010, and on or before February 1 of each year thereafter,
21 the department shall determine and certify to each school district
22 the maximum general fund budget of expenditures minus the special
23 education budget of expenditures for the immediately following
24 school fiscal year.

25 (2) Except as provided in section 79-1028.01, no

1 school district shall have a general fund budget of expenditures
2 minus special grant funds and the special education budget of
3 expenditures more than the greater of (a) the product of the
4 difference of the general fund budget of expenditures minus special
5 grant funds and the special education budget of expenditures
6 for the immediately preceding school fiscal year multiplied by
7 (i) except as otherwise provided in subdivision (a)(ii) of this
8 subsection, the sum of one plus the local system's applicable
9 allowable growth rate or (ii) for school fiscal year 2010-11, the
10 sum of one plus seventy-five hundredths of one percent plus the
11 local system's applicable allowable growth rate or (b) (i) except as
12 otherwise provided in subdivision (b) (ii) of this subsection, the
13 difference of one hundred twenty percent of formula need for such
14 school fiscal year minus the product of the sum of one plus the
15 basic allowable growth rate for such school fiscal year multiplied
16 by the special education budget of expenditures as filed on the
17 school district budget statement on or before September 20 for
18 the immediately preceding school fiscal year or (ii) for school
19 fiscal years 2009-10 and 2010-11, the difference of one hundred
20 sixteen and fifteen-hundredths percent of formula need for such
21 school fiscal year minus the product of the sum of one plus the
22 basic allowable growth rate for such school fiscal year multiplied
23 by the special education budget of expenditures as filed on the
24 school district budget statement on or before September 20 for the
25 immediately preceding school fiscal year.

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1 Sec. 12. Original sections 79-1005.01, 79-1007.15,
2 79-1007.19, and 79-1008.01, Reissue Revised Statutes of Nebraska,
3 and sections 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and
4 79-1023, Revised Statutes Supplement, 2009, are repealed.

5 Sec. 13. Since an emergency exists, this act takes effect
6 when passed and approved according to law.